IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE HARUN-UL-RASHID

WEDNESDAY, THE 7TH NOVEMBER 2007 / 16TH KARTHIKA 1929

CRP.No. 1054 of 2005()

I.A. 190/2004 IN CMA.64/2001 of DISTRICT COURT, KALPETTA
I.A 472/1999 IN OS.324/1993 of SUB COURT, SULTHAN BATHERY

.....

REVN. PETITIONER:

KODAKKATTU MOHAMMEDALI,
S/O.ALAVI, AGED ABOUT 42 YEARS,
RESIDING AT `TAJ HOUSE', PILASSERI,
VENGAPPILLY, PINANGODE, WYTHIRI TALUK.

BY ADV. SRI.V.RAJAGOPAL

RESPONDENTS:

KUZHUPULLY AUGUSTINE,
S/O.GEORGE, AGED ABOUT 48 YEARS,
OWNER OF JUNIOR ENGINEERING WORKS, BATHERY TALUK,
PURAKADY AMSOM, RESIDING AT CHEENGERI DESOM.

BY ADV. SRI.ASOK M.CHERIAN

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 07/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

HARUN-UL-RASHID, J.

C.R.P No. 1054 of 2005

Dated this the 7th day of November 2007

ORDER

This Civil Revision Petition is filed by the defendant in O.S. No. 324/1993 on the file of the Sub court Sulthan Bathery The suit was for recovery of money.

2. Though several opportunities were given to the revision petitioner by the learned Sub judge, he did not appear before the court. Therefore the lower court struck off his defence on 16-3-2007 and decreed the suit exparte. The revision petitioner filed I.A No. 472/1999 before the lower court to set aside the exparte decree which was dismissed by the lower court by order dated 5-7-2001. The said order was challenged by the revision petitioner by filing C.M. Appeal before the District Judge Waynad on 5-3-2003. When the appeal was taken up for final hearing, the counsel for the appellant reported no instructions and the C.M.A. was dismissed for default. Subsequently a petition was filed as I.A. 191/2004 to restore the C.M. Appeal to file. The restoration application was also not filed in time. But filed belatedly with a petition to condone the delay of 475 days in filing the petition for restoration.

3. The appellate court going through the averments in the petition for condonation of delay, held that no sufficient cause is made

out to condone the delay and that the revision petitioner did not adduce any evidence to substantiate his case. From the conduct of the revision petitioner, it is clear the he is not prosecuting the matter with the seriousness it deserves and he is continuously negligent and callous in conducting the case. No appealing reasons are proved to condone the delay of 475 days in filing the restoration application when his appeal was dismissed for non- prosecution.

4. I find no reasons to interfere with the order passed by the court below, which is a reasoned order based on facts. There is no merit in the C.R.P and accordingly the same is dismissed.

HARUN-UL-RASHID, JUDGE

es